

P-3007/GR-93-1 ORDER ACCEPTING FILING AND SUSPENDING RATES

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Don Storm	Chair
Tom Burton	Commissioner
Cynthia A. Kitlinski	Commissioner
Dee Knaak	Commissioner
Norma McKanna	Commissioner

In the Matter of the Petition of Minnesota Independent Equal Access Corporation for Authority to Increase its Rates for Telephone Service in the State of Minnesota	ISSUE DATE: May 11, 1993  DOCKET NO. P-3007/GR-93-1  ORDER ACCEPTING FILING AND SUSPENDING RATES
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**PROCEDURAL HISTORY**

On March 22, 1993, Minnesota Independent Equal Access Corporation (MIEAC) filed a petition seeking a general rate increase of \$833,923 or 25.8 percent effective May 21, 1993.

On March 23, 1993, the Commission issued a Notice requesting interested persons to file comments on whether the Commission should accept the filing as substantially in compliance with the applicable filing requirements and whether the matter should be referred to the Office of the Administrative Hearings for contested case proceedings.

On April 6, 1993, MIEAC filed comments requesting an alternate process be adopted for the handling of its filing.

On April 7, 1993, comments on acceptance and procedures were filed by the Minnesota Department of Public Service (the Department), AT&T Communications, Inc. (AT&T), and U S West Communications, Inc. (USWC).

On April 7, 1993, the Commission issued a Notice Requesting Additional Comments.

On April 16, 1993, additional comments on procedures were filed by MIEAC, the Department, and MCI Communications, Inc. (MCI).

On April 30, 1993, AT&T and MCI filed further comments on procedures.

On May 4, 1993, the Commission met to consider this matter.

## FINDINGS AND CONCLUSIONS

### Adequacy of the Filing

The Commission reviews a general rate case filing for compliance with applicable statutes, rules, and applicable prior Orders, if any.

Having examined the Company's filing and having considered the arguments of the parties, the Commission finds that the filing substantially complies with the Minn. Stat. § 237.075 (1992) and the applicable rules, Minn. Rules, Parts 7810.8600 through 7810.8690. This finding is as to form only and implies no judgment on the merits of the application.

The Commission's January 21, 1993 ORDER APPROVING COMPLIANCE FILING AND REQUIRING ADDITIONAL FILINGS in Docket No. P-3007/NA-89-76 imposed several additional general rate case filing requirements on MIEAC. Specifically, the Commission directed MIEAC in its next rate case filing to 1) address the issue of what accounts are properly used to calculate switching and transmission costs in years two through five of its operations, 2) demonstrate how its general allocator is computed in its next general rate proceeding, 3) identify its transport capacity, including justification for including all costs of excess capacity in its regulated rate base, and 4) address whether it should have monopoly control over the routing of 800 traffic for PILEC exchanges and shall have the burden of proof in that regard. ORDER, pp. 16-17.

After reviewing the testimony MIEAC filed as part of its rate increase request, the Commission finds that MIEAC has supplied the information required in the January 21, 1993 Order. Again, this finding is limited to form and implies no approval of the positions taken by the Company on the requested subjects.

### Interim Rates

Under Minn. Stat. § 237.075. subd. 2 (1992), the rates proposed by the Company will become effective 60 days from the filing, unless they are suspended by the Commission. The Commission finds that it cannot resolve all issues regarding the reasonableness of the proposed rates within the 60 day period and that the public interest requires suspension.

In anticipation of the Commission suspending the rates, the Company proposed an interim rate schedule to be effective on May 21, 1993. MIEAC proposed interim rates that are the same as its final rates: an increase in revenues of \$833,923, or 25.8 percent. The Company provided full information and documentation for its interim rate request, which will be acted upon on or before May 21, 1993 to go into effect on May 21, 1993.

### Further Procedures

Normally at this point in its consideration of a request for a general rate increase, the Commission determines whether contested case proceedings are necessary for adequate examination of the merits of the request and, if such a finding is made, refers the matter to the Office of Administrative Hearings. However, MIEAC has proposed an alternate process for handling this matter which the Commission finds has merit.

In its April 6, 1993 filing, MIEAC requested a process in which any party that actively and fully participated in the P-3007/NA-89-76 proceeding (In the Matter of the Minnesota Independent Equal Access Corporation's Application for a Certificate of Public Convenience and Necessity) be granted party status upon request. Any other person would be required to meet the customary standards for party status. Parties to the proceeding would also be authorized to send information requests to other parties with responses mailed within ten days of receipt of the information request.

MIEAC also proposed that the following schedule of filings be adopted: by June 15, 1993, parties other than MIEAC should file their direct testimony or written statements; by July 15, 1993 MIEAC would file rebuttal testimony; on or before July 30, 1993, the parties could submit a proposed settlement; any party may request that any disputed issue(s) be referred to the OAH for contested case proceedings; or, the parties could agree to request that the Commission establish a schedule for briefing, oral argument and resolution without a contested case for those issues not settled or referred to the OAH.

Under this alternate proposal, the Commission would refer the matters for which parties had requested a contested case to the OAH, resolve any settlement as provided in Minn. Stat. § 237.076, subd. 2, or establish a schedule for resolving without a contested case those issues not settled or referred to the OAH.

After discussions with MIEAC and among themselves, the Department, USWC, AT&T, and MCI agreed that the proposal was workable with the modification that all the dates be moved back two weeks.

In short, under the proposed alternate procedure, issues to be decided by the Commission will come before it in three different ways: as part of a proposed settlement, as individual unresolved issues following contested case proceedings, or simply as unresolved issues not requiring contested case preparation. The procedures are fully set forth in Ordering Paragraph 3.

The Commission will adopt the proposed procedure for this case. Adoption of this procedure for this particular filing should in no way be seen as a precedent for any future filings. This

procedure is appropriate for this case because it reflects the unique aspects of this rate filing, properly balances the cost of the review of the filing with the size of the proposed increase, is consistent with the fact that many of the cost issues were previously reviewed in MIEAC's recent compliance filing in docket P-3007/NA-89-76, and recognizes that the rate cap results in revenues being sufficiently below its proposed revenue requirement that it is questionable whether any adjustments would result in a lower revenue increase.

### **ORDER**

1. The rate increase petition of Minnesota Independent Equal Access Corporation (MIEAC) is accepted as being in proper form and substantially complete as of March 22, 1993.
2. The operation of the proposed rate schedule is hereby suspended under Minn. Stat. § 237.075, subd. 2 (1992), until the Commission has issued a final determination in this case.
3. Development of the record in this matter shall proceed as follows:
  - a. Upon request filed with the Commission, any party that actively and fully participated in MIEAC's initial application shall have status as a party in this proceeding. Parties eligible for party status upon request are: the Department, the Residential Utilities Division of the Office of the Attorney General (RUD-OAG), AT&T, USWC, and MCI/Teleconnect. Any other person shall meet the customary standards for intervention.
  - b. All parties to this proceeding are hereby authorized to send information requests to other parties and responses shall be mailed within ten days of receipt of the information requests.
  - c. Parties, other than MIEAC, are hereby authorized, to submit written testimony or statements on or before July 1, 1993 on any aspect of MIEAC's filing, including the issues listed in the Commission's January 21, 1993, ORDER APPROVING COMPLIANCE FILING AND REQUIRING ADDITIONAL FILINGS in Docket No. P-3007/ NA-89-76. If statements, rather than testimony, are provided, they shall be subscribed by the individual who would testify as to the accuracy of the statements if a contested case hearing becomes necessary.

- d. On or before August 2, 1993, MIEAC may respond to the testimony or statements with its own rebuttal testimony or statements. If statements, rather than testimony, are provided by MIEAC, they shall be subscribed by the individuals who would testify as to the accuracy of the statements if a contested case hearing becomes necessary.
  - e. On or before August 23, 1993,
    - 1. the parties may submit a proposed settlement to the Commission on any or all issues;
    - 2. any party may request that any disputed issue(s) be referred to the OAH for a contested case proceeding; or
    - 3. the parties may agree to request that the Commission establish a schedule for briefing, oral argument and resolution without a contested case of those issues not settled or referred to the OAH.
  - f. The Commission will then:
    - 1. consider referring those matters on which the parties have requested a contested proceeding to the OAH for a contested case;
    - 2. resolve any settlement as provided in Minn. Stat. § 237.076, subd. 2; or
    - 3. establish a schedule for resolution without a contested case for those issues not settled or referred to the OAH and encourage the ALJ to establish a hearing schedule that limits the days of evidentiary hearings in proportion to any unresolved issues.
  - g. If a contested case hearing is required, the ten month period provided by Minn. Stat. § 237.075, subd. 2 shall be extended to March 22, 1994, as agreed by MIEAC.
4. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Richard R. Lancaster  
Executive Secretary

(S E A L)